

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| In re: PHARMACEUTICAL INDUSTRY |) | |
| AVERAGE WHOLESALE PRICE |) | |
| LITIGATION |) | MDL No. 1456 |
| |) | Master Case No. 01-12257-PBS |
| |) | |
| THIS DOCUMENT RELATES TO: |) | Subcategory Case No. 06-11337-PBS |
| |) | |
| <i>United States of America ex rel. Ven-a-Care</i> |) | |
| <i>of the Florida Keys, Inc. v. Dey, Inc., et al.,</i> |) | |
| Civil Action No. 05-11084-PBS |) | |

JOINT MOTION TO MODIFY PRETRIAL ORDER

The parties hereby move to modify the Pretrial Order dated October 20, 2009 (Master Dkt #6613, Sub. #508), in accordance with the attached proposed schedule. The parties have reached agreement on changes that would advance a number of due dates so that the various pretrial tasks are more staggered over the summer. Only two of the deadlines have been extended: the deadlines for submission of jury instructions and voir dire questions have been extended by two days, from August 25, 2010, to August 27, 2010. In addition, the defendants propose (without objection by plaintiffs) to add a new September 1, 2010, deadline for limited “fairness/completeness counter-counter designations” of deposition testimony, and to set the

deadline for objections to counter-designations on the same date. The parties further propose to add a new September 7, 2010, deadline for objections to counter-counter designations.

Respectfully submitted,

TONY WEST
ASSISTANT ATTORNEY GENERAL

FOLEY HOAG LLP

CARMEN M. ORTIZ
UNITED STATES ATTORNEY

By: /s/ Robert E. Toone
Martin F. Murphy
BBO 363250
Robert E. Toone
BBO 663249
Seaport World Trade Center West,
155 Seaport Boulevard
Boston, Massachusetts 02210-2600
Telephone: (617) 832-1000
Facsimile: (617) 832-7000

By: /s/ George B. Henderson, II
George B. Henderson, II
Assistant U.S. Attorney
United States Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3282

JOYCE R. BRANDA
DANIEL R. ANDERSON
LAURIE A. OBEREMBT
Civil Division
Commercial Litigation Branch
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044

KELLEY DRYE & WARREN LLP

Paul F. Doyle (BBO 133460)
Sarah L. Reid (pro hac vice)
William A. Escobar (pro hac vice)
Neil Merkl (pro hac vice)
101 Park Avenue
New York, New York 10178
Telephone: (212) 808-7800
Facsimile: (212) 808-7897

FOR THE RELATOR
James J. Breen
The Breen Law Firm, P.A.
5755 Northpoint Parkway, Suite 260
Alpharetta, GA 30022
Tel. (770) 740-0000

Counsel for Defendants Dey Pharma, L.P., Dey
L.P., Inc., and Dey, Inc.

Gary Azorsky
Susan Schneider Thomas
Berger & Montague, P.C.
1622 Locust St.
Philadelphia, PA 19103
Tel. (215) 875-3090

CERTIFICATION

The undersigned counsel certifies pursuant to LR 7.1(A)(2) that counsel have conferred concerning this motion.

/s/ George B. Henderson, II
George B. Henderson, II

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above document to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: July 6, 2010

/s/ George B. Henderson, II
George B. Henderson, II

PROPOSED PRETRIAL ORDER

| EVENT | CURRENT DATE | PROPOSED DATE |
|---|---------------------|--|
| Witness lists | 8/9/10 | 7/16/10 |
| Exhibit lists | 8/9/10 | 7/21/10 |
| Designations of deposition testimony | 8/9/10 | 7/28/10 |
| Motions in limine | 8/25/10 | 8/4/10 |
| Dey's Motion in limine regarding Dr. Perri and one motion in limine by plaintiffs | | 7/16/10 |
| Dey's Motion in limine regarding Roxane evidence | | 7/23/10 |
| Objections to witnesses | 9/1/10 | 7/30/10 |
| Objections to exhibits | 9/1/10 | 8/13/10 |
| Oppositions to motions in limine filed on 7/16/10 and 7/23/10 | NONE | 8/23/10 |
| Oppositions to motions in limine filed on 8/4/10 | 9/1/10 | 8/30/10 |
| Objections to designations of deposition testimony | NONE | 8/18/10 |
| Counter-designations of deposition testimony | 9/1/10 | 8/18/10 |
| Conference re Pre-trial memorandum | 8/25/10 | 8/20/10 |
| Replies to oppositions to motions in limine | NONE | The parties will negotiate as needed and submit proposal to Court. |
| Objections to counter-designations of deposition testimony | NONE | 9/1/10 |
| Fairness/completeness counter-counter designations of deposition testimony | NONE | 9/1/10 |

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| Objections to fairness/completeness counter-counter designation of deposition testimony | | 9/7/10 |
| Joint pretrial memorandum | 9/1/10 | 9/1/10 |
| Proposed jury instructions | 8/25/10 | 8/27/10 |
| Proposed voir dire questions | 08/25/10 | 8/27/10 |
| Trial briefs | 9/7/10 | 9/7/10 |
| Final Pretrial Conference | 9/8/10 | 9/8/10 |
| Trial | 9/13/10 | 9/13/10 |